

FILED

08 JAN 23 AM 11:21

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

PDV

DEPUTY

Lori S. Brody (SBN 150545)
KAPLAN FOX & KILSHEIMER LLP
1801 Century Park East, Suite 1460
Los Angeles, CA 90067
Telephone: 310-785-0800
Facsimile: 310-785-0897

Joel B. Strauss
Jeffrey P. Campisi
KAPLAN FOX & KILSHEIMER LLP
850 Third Avenue, 14th Floor
New York, NY 10022
Telephone: (212) 687-1980

Richard A. Lockridge
Karen H. Riebel
Nathan D. Prosser
LOCKRIDGE GRINDAL NAUEN PLLP
100 Washington Avenue South, Suite 2200
Minneapolis, MN 55401
Telephone: (612) 339-6900

Laurence D. King (SBN 206423)
KAPLAN FOX & KILSHEIMER LLP
350 Sansome Street, Suite 400
San Francisco, CA 94104
Telephone: (415) 772-4700

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KENT CARMICHAEL, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

LEAP WIRELESS INTERNATIONAL,
INC., S. DOUGLAS HUTCHESON, MARK
H. RACHESKY, AMIN I. KHALIFA, and
DEAN M. LUVISA,

Defendants.

'08 CV 0128 H LSP

Civil Action No.

CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE SECURITIES
LAWS

DEMAND FOR JURY TRIAL

COMPLAINT

CP

1 Plaintiff, Kent Carmichael, individually and on behalf of all other persons similarly
2 situated, by his undersigned attorneys, alleges the following based upon Plaintiff's personal
3 knowledge of Plaintiff's own acts, and upon further information and belief as to all other matters,
4 which includes, *inter alia*, the investigation conducted by and through Plaintiff's attorneys,
5 including a review of relevant public filings made by Leap Wireless International, Inc. ("Leap" or
6 the "Company") with the United States Securities and Exchange Commission ("SEC"), as well as
7 regulatory filings and reports, press releases and other public statements issued by the Company,
8 news articles, analysts' reports, and media reports concerning the Company. Plaintiff believes that
9 substantial evidentiary support will exist for the allegations set forth herein after a reasonable
10 opportunity for discovery.

11 I. SUMMARY OF ACTION

12 1. This is a securities class action on behalf of all persons who purchased or otherwise
13 acquired the common stock of Leap between November 10, 2005, and November 8, 2007, inclusive (the
14 "Class Period"), against Leap and certain of its officers and/or directors for violations of the Securities
15 Exchange Act of 1934 (the "Exchange Act").

16 2. Leap is a wireless communications carrier that offers digital wireless service under the
17 Cricket Communications, Inc. ("Cricket") and Jump Mobile brands in the United States. Headquartered
18 in San Diego, California, Leap is traded on the NASDAQ under the ticker symbol "LEAP."

19 3. During the Class Period, Defendants issued materially false and misleading statements
20 regarding the Company's business and prospects. As a result of Defendants' false statements, Leap stock
21 traded at artificially inflated prices during the Class Period, reaching its all-time high of \$99.04 per share
22 on July 25, 2007. When the truth was finally revealed on November 9, 2007, the price of the Company's
23 publicly traded stock plummeted to close at \$36.72, damaging the Plaintiff and the other members of
24 the Class.

25
26
27 ////

II. JURISDICTION AND VENUE

4. This action arises under §§10(b) of the Exchange Act of 1934, 15 U.S.C. §§78j(B) and 78t(a), and the rules and regulations promulgated there under, including SEC Rule 10b-5, 17 C.F.R. §240.10b-5.

5. This Court has jurisdiction over this action pursuant to §27(a) of the Securities Exchange Act, 15 U.S.C. §78aa, and 28 U.S.C. §1331.

6. Venue is proper in the Southern District of California pursuant to §27 of the Exchange Act and 28 U.S.C. §1391(b), because the false statements made by Defendant Leap were made in this District and acts giving rise to the violations complained of herein also occurred in this District.

III. PARTIES

7. Plaintiff purchased Leap common stock during the Class Period as fully set forth in the attached certification and subsequently suffered economic damages.

8. Defendant Leap, through its subsidiaries, offers digital wireless services in the United States under the Cricket and Jump Mobile brands. The Company offers unlimited local and the U.S. long distance service from the Cricket service area, and unlimited use of multiple calling features and messaging services. It also offers a basic service plan that allows customers to make unlimited calls within their Cricket service area and receive unlimited calls from any area. In addition, the Company provides per-minute prepaid service, instant messaging, multimedia messaging, games and roaming services, voicemail, caller ID and call waiting, unlimited text messaging, instant messaging, directory assistance calls, and ring tone services. Leap sells Cricket handsets and service, primarily through its own retail locations and kiosks, and authorized dealers and distributors, including premier dealers, local market authorized dealers, national retail chains, and other indirect distributors. Defendant Leap began as a spin-off of QUALCOMM. The Company was incorporated in June 1998, and in September of that same year began trading on NASDAQ. Leap launched its Cricket wireless service in March of 1999 in Chattanooga, Tennessee and from this initial launch the Company grew steadily for several years.

1 launching service in primarily smaller, rural markets. On April 13, 2003, the Company filed for Chapter
2 11 bankruptcy protection. The Company was restructured and emerged from bankruptcy on August 16,
3 2004. As of December 31, 2006, the Company offered services in 22 states to approximately 2,230,000
4 customers. The Company is headquartered in San Diego, California.

5 9. Defendant S. Douglas Hutcheson ("Hutcheson") is, and was at all relevant times, a
6 director, President and Chief Executive Officer ("CEO") of Defendant Leap. Hutcheson is currently
7 serving as interim Chief Financial Officer ("CFO") after Amin I. Khalifa's abrupt departure from the
8 Company in September of 2007. During the class period, Hutcheson sold 23,923 artificially inflated
9 Leap shares for proceeds of approximately \$1.9 million.

10 10. Defendant Mark H. Rachesky ("Rachesky") is, and was at all relevant times, a director
11 and Chairman of the Board of the Company.

12 11. Defendant Amin I. Khalifa ("Khalifa") served as CFO of Leap from August 2006 until
13 his sudden resignation from the Company on September 6, 2007.

14 12. Defendant Dean M. Luvisa ("Luvisa") has served as Vice President of Finance for the
15 Company since March 2006. He had previously served as acting CFO until August of 2006. During the
16 Class Period, Luvisa sold 6,422 artificially inflated Leap shares for proceeds of approximately \$322,032.

17 13. Defendants Hutcheson, Rachesky, Khalifa, and Luvisa as named above, may collectively
18 be referred to herein as the "Individual Defendants."

19 14. Individual Defendants, as senior officers and spokespersons of Leap, were the controlling
20 person(s) of the Company within the meaning of §20(a) of the Exchange Act and as such, exercised their
21 power and influence to cause the Company to engage in the unlawful conduct complained of herein.

22 IV. PLAINTIFF'S CLASS ACTION ALLEGATIONS

23 15. Plaintiff brings this action as a class action under Rules 23(a) and 23(b)(3) of the Federal
24 Rules of Civil Procedure on behalf of a Class consisting of Plaintiff and all other persons or entities who
25 purchased or otherwise acquired the securities of Defendant Leap on the open market during the Class
26

1 Period. Excluded from the Class are the Defendants, members of their immediate families, officers and
2 directors of Leap, members of their immediate families, the heirs, successors or assigns of any of the
3 foregoing and any entity in which any Defendants have or had a controlling interest.

4 16. The members of the Class are so numerous that joinder of all members is impracticable.
5 The disposition of their claims in a class action will provide substantial benefits to the parties and the
6 Court. Leap has over 61.16 million shares of outstanding stock, owned by hundreds if not thousands of
7 persons, registered, and listed on NASDAQ trading under the symbol "LEAP." While the exact number
8 of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate
9 discovery, Plaintiff believes that there are thousands of members of the proposed Class. Record owners
10 and other members of the Class may be identified from records maintained by the Company or its
11 transfer agent and can be notified of the pendency of this action by mail and published notice.
12

13 17. Plaintiff's claims are typical of the claims of the members of the Class as all members of
14 the Class are similarly affected by Defendants' wrongful conduct in violation of the federal securities
15 laws that are complained of herein.
16

17 18. Plaintiff will fairly and adequately protect the interests of the members of the Class and
18 has retained counsel competent and experienced in class action and securities litigation.

19 a. Common questions of law and fact exist as to all members of the Class and predominate
20 over any questions solely affecting individual members of the Class. Among the questions of law and
21 fact common to the Class are:
22

23 b. whether the federal securities laws were violated by Defendants' acts as alleged herein;

24 c. whether statements made by Defendants to the investing public during the Class Period
25 misrepresented material facts about the business, operations, and financial condition of the Company;
26
27

1 d. whether Defendants acted knowingly or recklessly in making materially false and
2 misleading statements during the Class Period;

3 e. whether the market prices of the Company's common stock were artificially inflated or
4 distorted during the Class Period due to Defendants' conduct complained of herein; and

5 f. to what extent the members of the Class have sustained damages and the proper measure
6 of damages.

7
8 19. A class action is superior to all other available methods for the fair and efficient
9 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the
10 damages suffered by individual Class members may be relatively small, the expense and burden of
11 individual litigation make it impossible for members of the Class to individually redress the wrongs done
12 to them. There will be no difficulty in the management of this action as a class action.

13 **V. FRAUDULENT SCHEME AND COURSE OF BUSINESS**

14
15 20. Defendants are liable for: (i) making false statements; or (ii) failing to disclose adverse
16 facts known to them about Leap. Defendants' fraudulent scheme and course of business that operated as
17 a fraud or deceit on purchasers of Leap common stock was a success, as it: (i) deceived the investing
18 public regarding Leap's prospects and business; (ii) artificially inflated the price of Leap's common
19 stock; (iii) allowed Defendants Hutcheson to sell his own Leap stock at artificially inflated prices; and
20 (iv) caused Plaintiff and other members of the Class to purchase Leap common stock at artificially
21 inflated prices.

22 **BACKGROUND**

23 21. Defendant Leap, through its subsidiaries, offers discount digital wireless services in the
24 United States under the Cricket and Jump Mobile brands. The Company offers unlimited local and the
25 U.S. long distance service from Cricket service area, and unlimited use of multiple calling features and
26 messaging services.

1 22. In November of 2007 the Company shocked the investment world when it announced that
2 it was restating its financial statements for fiscal years 2004, 2005 and 2006 and for the first and second
3 quarters of 2007 to correct errors in previously reported service revenues, equipment revenues, and
4 operating expenses.

5 23. The restatements were the result of an internal review of the Company's service revenue
6 activity and forecasting process that was initiated by management in September 2007.

7 24. The announcement concerning the Company's accounting problems and internal
8 accounting controls caused the stock price to plummet from the artificially inflated prices the
9 Company's stock was traded at during the class period.

10 **DEFENDANTS' FALSE AND MISLEADING STATEMENTS**

11 25. On November 9, 2005, after the close of trading, the Company issued a press release
12 entitled "Leap Reports Results for Third Quarter of 2005; Solid Performance Marked by Strong Year-
13 Over-Year Growth in Customers, Total Revenues and Adjusted EBITDA" The release stated in part:

14 Leap Wireless International, Inc. (NASDAQ:LEAP), a leading provider of
15 innovative and value-driven wireless communications services, today announced
16 strong financial results for the third quarter of 2005. These results reflect continued
17 strong year-over-year growth in total revenues and adjusted consolidated earnings
before interest, taxes, depreciation and amortization (EBITDA).

18 Total consolidated revenues for the third quarter were \$230.5 million, an
19 increase of \$23.6 million over the total consolidated revenues of \$206.9 million for
20 the third quarter of 2004. Consolidated operating income for the third quarter was
21 \$28.6 million, an increase of \$26.4 million over consolidated operating income of
22 \$2.2 million for the third quarter of 2004. Consolidated net loss for the third quarter
23 totaled \$7.6 million, or a loss of \$0.13 per diluted share. This compares to
consolidated net income in the third quarter of 2004 of \$957.3 million, which included
\$963.2 million of reorganization items, net, reflecting the net impact of fresh-start
reporting and other bankruptcy related items.

24 "Our performance during the third quarter reflects an overall strengthening of
25 our business as our product development activities, distribution improvements and
26 marketing strategies have taken effect," said Doug Hutcheson, president and chief
27 executive officer of Leap. "Once again, we have demonstrated an ability to generate
solid operational performance, even while supporting the costs associated with our
new market launch activities and systems upgrades to meet regulatory requirements

1 and to support future improvements in efficiency. We are on track to meet our goals
2 for 2005 while implementing our strategic plans, and we are looking toward the
3 coming year with great anticipation."

4 26. On November 11, 2005, the Company filed its third quarter results for 2005 with the
5 SEC. The filing was signed by Defendants Hutcheson and Luvisa and repeated the results set forth in
6 the November 9, 2005 press release.

7 27. On March 16, 2006, the Company issued a press release entitled "Leap Reports Results
8 for Fourth Quarter and Full Year 2005; Company Delivers Strong Year-over-Year Growth in Service
9 Revenues and Adjusted OIBDA; Positive Growth Trend Evident in Company's Outlook for First Quarter
10 of 2006" The release stated in part:

11 Leap Wireless International, Inc. (NASDAQ:LEAP), a leading provider of
12 innovative and value-driven wireless communications services, today announced
13 consolidated financial and operational results for the fourth quarter and full year
14 ended December 31, 2005, reflecting strong year-over-year growth in service
15 revenues and adjusted operating income before depreciation and amortization
16 (OIBDA) ...

17 Total revenues for the fourth quarter were \$228.9 million, an increase of \$22.3
18 million over the total revenues of \$206.6 million for the fourth quarter of 2004.

19 Operating income for the fourth quarter was \$10.8 million, an increase of \$5.9
20 million over the \$4.9 million for the fourth quarter of 2004. Net income was \$5.0
21 million for the fourth quarter, or \$0.08 per diluted share. This compares to the net loss
22 of \$6.6 million, or \$0.11 per diluted share, for the fourth quarter of 2004.

23 "The Company had another successful quarter, reflecting continued execution
24 of the strategic growth plans we have established for our business," said Doug
25 Hutcheson, president and chief executive officer of Leap. "Based on the results of the
26 fourth quarter and full year 2005, and our first quarter outlook for new customers and
27 adjusted OIBDA, we believe the broad impact and value of our actions are becoming
28 evident. We look forward to continuing progress in the coming year as we expand our
services and market presence throughout 2006."

For the full year 2005, total revenues were \$914.7 million, an \$88.7 million
improvement over total revenues of \$826.0 million for the full year 2004. Operating
income for 2005 was \$69.8 million, an increase of \$100.0 million over an operating
loss of \$30.2 million for 2004. Net income for 2005 was \$30.0 million, or \$0.49 per
diluted share. This compares to net income of \$904.8 million for the full year 2004,

1 which included \$962.4 million of reorganization items, net, reflecting the net impact
2 of fresh-start reporting and other bankruptcy-related items.

3 28. On March 27, 2006, the Company filed its Annual Report for 2005 with the SEC. The
4 filing was signed by Defendants Hutcheson, Rachesky and Luvisa and repeated the results set forth in
5 the March 16, 2006 press release.

6 29. On May 9, 2006, the Company issued a press release entitled "Leap Reports Consolidated
7 Results for First Quarter 2006; Improvement in Customer Growth and Record Breaking Adjusted
8 OIBDA Underscore Company's Strong Financial and Operational Performance". The release stated in
9 relevant part:

10 -- Strong net customer growth with over 110,000 net customer additions for
11 the quarter, up approximately 140% from net customer additions for the first quarter
12 of 2005

13 -- Total consolidated revenue for the quarter of \$266.7 million, a 17%
14 increase from the total consolidated revenue for the first quarter of 2005

15 -- Consolidated operating income of \$19.9 million, compared to \$21.9 million
16 in the same period last year . . .

17 "The Company had a successful quarter, delivering strong customer growth
18 and record-breaking adjusted OIBDA performance," said Doug Hutcheson, chief
19 executive officer and president of Leap. "The business continues to execute well on
20 our strategic growth plans. Our total net customer growth for the quarter included
21 approximately 82,000 new subscribers in markets operating at the end of 2005, with
22 approximately 28,000 additional new customers coming from the markets launched
during the quarter. We are looking forward to improving results over the coming
quarters in our existing markets and from the launch of additional new markets
planned for 2006. We expect our customer behavior will continue to have a seasonal
rhythm and may be affected by rising energy prices in the short-term."

23 30. On May 10, 2006, the Company filed its results for the first quarter of 2006 with the SEC.
24 The filing was signed by Defendants Hutcheson and Luvisa and repeated the results set forth in the May
25 9, 2006 press release.

26 31. On August 3, 2006, the Company issued a press release entitled "Leap Reports
27 Consolidated Results for Second Quarter 2006; Strong Performance Led by Growth in Service Revenues

1 and Operating Income". It stated in part:

2 -- Consolidated operating income of \$16.5 million, a 92% increase from the
3 consolidated operating income for the second quarter of 2005 . . .

4 "The Company executed very well on its major initiatives, posting strong
5 financial results as it expanded the footprint of Cricket(R) service to more than 37.3
6 million potential covered subscribers by the end of the second quarter," said Doug
7 Hutcheson, chief executive officer and president of Leap. "The Company delivered
8 continuing attractive customer growth despite some unanticipated disruptions, which
9 have been addressed. We remain very pleased with the pace and performance of our
10 new market launches and we look forward to additional strong growth in the second
11 half of the year. We believe that the continued performance improvements we have
12 seen in our existing markets and the progress of new market launches during the
13 quarter indicate that the business is well-positioned to deliver continued growth and
14 attractive financial performance in the coming quarters."

15 32. On August 4, 2006, the Company filed its results for the first quarter of 2006 with the
16 SEC. The filing was signed by Defendants Hutcheson and Luvisa and stated repeated the results set forth
17 in the August 3, 2006 press release.

18 33. On November 7, 2006, the Company issued a press release entitled "Leap Reports
19 Consolidated Results for Third Quarter 2006 - Company's Strong Operational and Financial
20 Performance During the Third Quarter Led by Solid Year-over-Year Growth in Net Customer Additions
21 and Service Revenues". It stated in part:

22 -- Total consolidated revenue for the quarter of \$287.5 million, a 25 percent
23 increase from the third quarter of 2005

24 -- Consolidated operating income of \$17.0 million . . .

25 "The Company produced attractive operating results, successfully launched a
26 series of new markets, achieved outstanding results in Auction #66 and completed a
27 series of capital market activities on favorable terms," said Doug Hutcheson, chief
28 executive officer and president of Leap.

34. On November 8, 2006, the Company filed its results for the first quarter of 2006 with the
SEC. The filing was signed by Defendants Hutcheson and Luvisa and repeated the results in the

1 November 7, 2006 press release.

2 35. On February 27, 2007, Leap issued a press release entitled "Leap Reports More than
3 260,000 Net Customer Additions in the Fourth Quarter and Completes Launch of Approximately 20
4 Million Covered POPs by Year End - Leap Finishes Year of Strong Execution with Solid Growth in
5 Existing Markets, Launch of 14 New Markets, Purchase of Additional Spectrum and Enhanced Capital
6 Structure." The press release stated in part:

7 Leap Wireless International, Inc. (NASDAQ: LEAP), a leading provider of
8 innovative and value-driven wireless communications services, today announced
9 financial and operational results for the fourth quarter and year ended December 31,
10 2006. Both periods showed significant growth in total consolidated revenues, lifted by
strong year-over-year improvements in net customer additions and average revenue
per user (ARPU).

11 "Our 2006 results reflect well-executed strategies for growth, anchored on the
12 distinct value of our unlimited service propositions and the low-cost structure
13 supporting these strategies," said Doug Hutcheson, Leap's chief executive officer and
14 president. "In 2006, Leap and its joint ventures expanded Cricket(R) coverage to
15 approximately 48 million covered POPs, completing this process on time and within
16 budget. Our fourth quarter and full year 2006 results reflect the contributions of this
new market activity on customer additions, as well as the expected initial negative
impact of new market launch activity on consolidated operating and net income."

17 36. On May 8, 2007, Leap issued a press release entitled "Leap Reports 318,000 Net
18 Customer Additions in First Quarter 2007, Nearly Triple Net Additions in First Quarter 2006; Company
19 reports solid adjusted operating income before depreciation and amortization (OIBDA) of \$81 million,
20 up 38% compared to fourth quarter" The press release stated in part:

21 Leap Wireless International, Inc. (NASDAQ: LEAP), a leading provider of
22 innovative and value-driven wireless communications services, today announced
23 financial and operational results for the first quarter 2007. The company reported
24 service revenues of \$326.8 million, a 51 percent increase over the prior year quarter,
25 driven by a 39 percent growth in weighted average customers and a nine percent rise
26 in average revenue per user (ARPU). For the first quarter, the company posted
27 adjusted operating income before depreciation and amortization (OIBDA) of \$81.0
million, up \$22.1 million from the fourth quarter of 2006, and up \$2.4 million from
the comparable period of the prior year, even after the company absorbed expenses
associated with the cost of acquiring a substantial number of new customers and the
impact of new markets launched in 2006. Operating income for the quarter was \$4.4

1 million compared to \$19.9 million for the first quarter of 2006, reflecting the impact
2 of additional depreciation expense associated with new market expansion.

3 "During the quarter, we saw continued strong customer acceptance of our
4 unlimited value proposition as demonstrated not only by customer additions, but also by
5 the continued acceptance of our higher-value service plans," said Doug Hutcheson,
6 Leap's chief executive officer and president.

7 37. On May 10, 2007, the Company filed its results for the first quarter of 2007 with the SEC.
8 The filing was signed by Defendants Hutcheson and Khalifa and repeated the results set forth in the May
9 8, 2007 press release.

10 38. On August 7, 2007, the Company issued a press release entitled "Leap Reports Second
11 Quarter 2007 Adjusted OIBDA of \$115 Million, Up 48% Compared to Prior Year Quarter, New Markets
12 in Aggregate Begin Contributing Positively to Adjusted OIBDA; Company Reports 127,000 Net
13 Customer Additions, More Than Double Net Additions from Second Quarter 2006." The press release
14 stated in part:

15 Leap Wireless International, Inc. (NASDAQ:LEAP), a leading provider of
16 innovative and value-driven wireless communications services, today announced
17 financial and operational results for the second quarter 2007. The company reported
18 service revenues of \$350.2 million, a 52 percent increase over the prior-year quarter,
19 driven by a 45 percent growth in weighted-average customers and a five percent rise
20 in average revenue per user (ARPU). In the second quarter, the company posted
21 adjusted operating income before depreciation and amortization (OIBDA) of \$115.2
22 million, up \$34.2 million from the first quarter of 2007 and up \$37.5 million from the
23 comparable period of the prior year. Operating income for the quarter was \$36.9
24 million compared to \$16.5 million for the second quarter of 2006.

25 "In the second quarter, we continued to experience attractive customer growth
26 over the prior year period, including 115,000 net customer additions in the new
27 markets launched in 2006 and 2007. With the addition of 12,000 new customers in
28 existing markets during the quarter, net customer additions increased approximately
60 percent over the prior year quarter and approximately 30 percent during the first
half of the year as compared to the prior year period, in each case after adjusting for
the sale of our Toledo and Sandusky, Ohio markets in 2006," said Doug Hutcheson,
Leap's chief executive officer and president. "During the quarter, we saw strong
acceptance of our new higher-value service plans from both new and existing
customers, resulting in ARPU of \$45.13. As a result of the success we have seen with
the uptake of our new service plans, we expect to see continued upward pressure on

1 ARPU over the coming quarters, subject to normal seasonal fluctuations. Second
 2 quarter ARPU declined from the first quarter of 2007 due to our typical seasonal
 3 rhythms and customer deactivations associated with the increase in less tenured
 customers from our market-launch successes."

4 39. On August 9, 2007, the Company filed its results for the second quarter of 2007 with the
 5 SEC. The filing was signed by Defendants Hutcheson and Khalifa and repeated the results set forth in
 6 the August 7, 2007 press release.

7 The Truth Revealed

8 40. Finally on November 9, 2007, before the market opened, the Company issued a press
 9 release entitled "Leap Announces Restatement of Prior Period Results; Company Also Releases
 10 Preliminary Financial Results for the Third Quarter and Business Outlook for Fourth Quarter of 2007."
 11 The press release stated in relevant part:

13 *Leap Wireless International, Inc. today announced that it will restate its*
 14 *financial statements for fiscal years 2004, 2005 and 2006 and for the first and*
 15 *second quarters of 2007 to correct for errors in previously reported service*
 16 *revenues, equipment revenues, and operating expenses. Over these periods, the*
 17 *restatements are expected to result in a net cumulative reduction of approximately*
 18 *\$20 million in service revenues and approximately \$20 million in operating income.*
 19 *The estimated effect of these errors on the Company's prior period results for service*
 20 *revenues and operating income is set forth below. Changes in net income (loss) will*
 21 *be determined following the Company's completion of its tax expense calculations for*
 22 *these periods. As a result of the pending restatements, the Company's previously*
 23 *issued financial statements for periods from fiscal year 2004 through the second*
 24 *quarter of 2007 should not be relied upon. In reaching this conclusion, the*
 25 *Company's management and Audit Committee have discussed the matters described*
 26 *in this press release with the Company's independent registered public accounting*
 27 *firm.*

28 The restatements are the result of an internal review of the Company's service
 revenue activity and forecasting process that was initiated by management in
 September 2007 and are not attributable to any misconduct by Company employees.
 The expected adjustments to historical financial results do not change unrestricted
 cash, cash equivalents and short term investments as of June 30, 2007. In addition,
 they do not materially change the overall trend in service revenues, nor do they
 materially change overall trends in ARPU, CPGA, CCU or capital expenditures.
 Finally, the expected adjustments do not impact previously reported results for net
 customer additions or churn.

1
2 Description of Accounting Errors

3 The most significant adjustment relates to the Company's prior accounting for
4 a group of customers who voluntarily disconnected service. These customers
5 comprised a small percentage of the Company's disconnected customers. For these
6 customers, approximately one month of deferred revenue that was recorded when the
7 customers' monthly bills were generated was mistakenly recognized as revenue after
8 their service was disconnected. The Company also identified other errors relating to
9 the timing and recognition of certain service revenues and operating expenses. The
effect of the timing errors varied across periods. The error with the largest variation
across periods related to the reconciliation of billing system data for pay in arrears
customers. This error resulted in an understatement of revenue in 2004 and 2005 and
an overstatement of revenue in subsequent periods as the number of pay in arrears
customers in the Company's customer base declined.

10 In connection with management's review, errors were also identified relating
11 to the classification of certain components of equipment revenues and cost of
12 equipment. Prior to June 2007, approximately \$120 million of revenue from the sale
13 of equipment was offset against related cost of equipment and reported on a net basis.
The reclassification of these revenues and costs on a gross basis will not impact
operating income.

14 Estimated Adjustments to Prior Period Results

15 * * *

16 The date and time of the Company's third quarter earnings release and
17 conference call will be provided in a separate press release.

18 The pending restatements and preliminary third quarter results described
19 above are subject to adjustment upon finalization of third quarter financial and
20 operational results and completion of the audit and review of the Company's restated
financial statements by its independent registered public accounting firm.

21 Business Outlook for Fourth Quarter of 2007

22 -- Net customer additions are expected to be between 70,000 and 130,000,
23 reflecting normal seasonal rhythms and the maturation of the markets launched in
2006.

24 -- Customer churn is expected to be in the range of 4.4 percent to 4.7 percent,
25 reflecting typical seasonal rhythms and the effects of customer handset upgrades and
26 improving trends related to the percentage of less-tenured customers within our
overall customer base.

1 -- Adjusted OIBDA is expected to be between \$105 million and \$115 million,
 2 bringing anticipated full year adjusted OIBDA to between \$385 and \$395 million.
 3 The Company's expectation for fourth quarter and full year adjusted OIBDA includes
 4 approximately \$12 to \$17 million of negative adjusted OIBDA we expect to incur to
 5 support our major new initiatives, including the Company's planned coverage
 6 expansion, higher-speed data services, Auction #66 build activity and other strategic
 7 activities.

8 Senior Secured Credit Agreement and Indenture

9 The restatements described above may result in a default under the senior
 10 secured credit agreement among Cricket Communications, Inc., Leap Wireless
 11 International, Inc., Bank of America, N.A. and certain lenders, under which
 12 approximately \$890 million in borrowings is currently outstanding. This potential
 13 default arises from the Company's potential breach of representations regarding the
 14 presentation of its prior financial statements and not as a result of any noncompliance
 15 with its financial covenants. Notwithstanding any potential default, the Company
 16 expects to continue to make scheduled payments of principal and interest under the
 17 credit agreement. The Company is pursuing a waiver of any potential default from the
 18 credit agreement lenders. Unless waived by the required lenders, a default would
 19 permit the administrative agent to exercise its remedies under the credit agreement,
 20 including declaring all outstanding debt under the credit agreement to be immediately
 21 due and payable. An acceleration of the outstanding debt under the credit agreement
 22 would also trigger a default under Cricket's indenture governing its \$1.1 billion of
 23 9.375% senior notes due 2014. The Company anticipates that the required lenders
 24 under the credit agreement will agree to waive any potential default that may occur as
 25 a result of the restatements; however, such actions cannot be assured.

26 In conjunction with the waiver, the Company is also asking lenders to approve
 27 other amendments to the credit agreement, including an amendment that would
 28 provide that entry into an agreement leading to a change of control will no longer
 constitute an event of default, unless and until the change of control occurs.

(Emphasis added).

41. As a result, Leap's stock collapsed \$21.38 per share to close at \$36.72 per share, a one-
 day decline of over 36% on unusual heavy trading volume of 11 million shares, 10 times the average
 three-month volume.

42. The true facts, which were known by the Defendants but concealed from the investing
 public during the Class Period, as the public statements set forth herein, were as follows:

(a) The Company's financial statements were materially misstated due to its failure to

1 properly account for its service revenue in violation of GAAP. Specifically, the Company
2 materially overstated revenue and operating income;

3 (b) The Company's financial statements were materially misstated due to its failure to
4 properly account for its equipment revenue and cost of equipment in violation of GAAP;

5 (c) The Company lacked requisite internal controls, and, as a result, the Company's
6 projections and reported results issued during the Class Period were based upon defective
7 assumptions and/or manipulated facts.

8 43. As a result of Defendants' false statements, Leap's stock price traded at inflated levels
9 during the Class Period. However, after the shocking revelations were released into the market on
10 November 9, 2007, the Company's shares were hit with massive sales, sending the share of the
11 Company's stock down over 62% from the Class Period high.

12 LEAP'S FALSE FINANCIAL REPORTING DURING THE CLASS PERIOD

13 44. In order to inflate the price of Leap's stock, Defendants caused the Company to falsely
14 report its results for 2004 through the Second Quarter of 2007, which inflated the Company's revenue
15 and operating income. The Company subsequently had to admit that its financial statements for 2004
16 through the Second Quarter of 2007 should not be relied upon.

17 45. The results for 2004 through the Second Quarter of 2007 were included in Form 10-Ks
18 and 10-Qs filed with the SEC. The results were also included in press releases disseminated to the
19 public.

20 46. Leap has now admitted that it improperly accounted for its service and equipment
21 revenue and operating expenses and will have to restate its results to remove improperly reported income
22 and expenses, such that its 2004 through the Second Quarter of 2007 financial statements were not a fair
23 presentation of Leap's results and were presented in violation of GAAP and SEC rules.

24 47. Due to these accounting improprieties, the Company presented its financial results and
25 statements in a manner which violated GAAP, including but not limited to the following fundamental
26

1 accounting principles:

- 2 (a) The principle that interim financial reporting should be based upon the same accounting
3 principles and practices used to prepare annual financial statements was violated;
- 4 (b) The principle that financial reporting should provide information that is useful to present
5 and potential investors and creditors and other users in making rational investment, credit
6 and similar decisions was violated;
- 7 (c) The principle that financial reporting should provide information about the economic
8 resources of an enterprise, the claims to those resources, and effects of transactions,
9 events and circumstances that change resources and claims to those resources was
10 violated;
- 11 (d) The principle that financial reporting should provide information about how management
12 of an enterprise has discharged its stewardship responsibility to owners (stockholders) for
13 the use of enterprise resources entrusted to it was violated. To the extent that
14 management offers securities of the enterprise to the public, it voluntarily accepts wider
15 responsibilities for accountability to prospective investors and to the public in general;
- 16 (e) The principle that financial reporting should provide information about an enterprise's
17 financial performance during a period was violated. Investors and creditors often use
18 information about the past to help in assessing the prospects of an enterprise. Thus,
19 although investment and credit decisions reflect investors' expectations about future
20 enterprise performance, those expectations are commonly based at least partly on
21 evaluations of past enterprise performance;
- 22 (f) The principle that financial reporting should be reliable in that it represents what it
23 purports to represent was violated. That information should be reliable as well as relevant
24 is a notion that is central to accounting;
- 25 (g) The principle of completeness, which means that nothing is left out of the information
26

1 that may be necessary to insure that it validly represents underlying events and conditions
2 was violated; and

- 3 (h) The principle that conservatism be used as a prudent reaction to uncertainty to try to
4 ensure that uncertainties and risks inherent in business situations are adequately
5 considered was violated. The best way to avoid injury to investors is to try to ensure that
6 what is reported represents what it purports to represent.

7 48. Further, the undisclosed adverse information concealed and misrepresented to the public
8 by Defendants during the Class Period is the type of information which, because of SEC regulations,
9 regulations of the national stock exchanges and customary business practice, is expected by investors
10 and securities analysts to be disclosed and is known by corporate officials and their legal and financial
11 advisors to be the type of information which is expected to be and must be disclosed.

12 VI. LOSS CAUSATION/ECONOMIC LOSS

13 49. During the Class Period, as detailed herein, Defendants made false and misleading
14 statements concealing the Company's true financial position and the truth was revealed only after the
15 Company restated its financial statements for fiscal years 2004, 2005 and 2006 and for the first and
16 second quarters of 2007 to correct for errors in previously reported service revenues, equipment
17 revenues, and operating expenses. Defendants' acts artificially inflated Leap's stock price and operated
18 as a fraud or deceit on the Plaintiff and the Class. When Defendants' prior misrepresentations and
19 fraudulent conduct became apparent to the market, Leap's stock price fell precipitously, as the prior
20 artificially inflated Company's stock price plummeted. As a result of purchasing Leap's stock at
21 artificially inflated prices during the Class Period, Plaintiff and other members of the Class suffered
22 damages under the federal securities laws.
23

24 VII. SCIENTER ALLEGATIONS

25 50. As alleged herein, Defendants acted with scienter in that Defendants knew that the public
26
27

documents and statements issued or disseminated in the name of the Company were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly or recklessly, substantially participated or acquiesced in the issuance or dissemination of such statement or documents as primary violators of federal securities laws.

51. As set forth herein in detail, Defendants by virtue of their receipt of information reflecting the true facts regarding Leap's business practices, revenue recording and accounting policies, their control over, and/or receipt and/or modification of Leap's materially false and misleading statements and/or associations with the Company, which made them privy to confidential proprietary information concerning Leap, participated in the fraudulent scheme alleged herein.

52. Defendants knew or recklessly disregarded the falsity and misleading nature of the information which they caused to be disseminated to the investing public.

53. Plaintiff as well as other Class members suffered economic loss as a direct result of Defendants' fraudulent scheme to artificially inflate the Company's stock price through prior misrepresentations and other fraudulent conduct.

54. The ongoing fraudulent scheme described herein could not have been perpetrated over a substantial period of time, as has occurred, without the knowledge and complicity of the personnel at the highest level of the Company, including the Individual Defendants.

VIII. FRAUD ON THE MARKET

55. Plaintiff will rely upon the presumption of reliance established by the fraud-on-the market doctrine in that, among other things:

- (a) Defendants made public misrepresentations or failed to disclose material facts during the Class Period;
- (b) The omissions and misrepresentations were material;
- (c) The Company's stock traded in an efficient market;
- (d) The Company's stock met the requirements for listing on NASDAQ, a highly efficient

1 and automated market;

2 (e) The misrepresentations alleged would tend to induce a reasonable investor to misjudge
3 the value of the Company's stock; and

4 (f) Plaintiff and other members of the Class purchased the Company's stock between the
5 time Defendants misrepresented or failed to disclose material facts and the time the true
6 facts were disclosed, without knowledge of the misrepresentations or omitted facts.

7 56. At all relevant times, the market for Leap stock was efficient for the following reasons,
8 among others;

9 (a) As a regulated issuer, Leap filed periodic public reports with the SEC; and

10 (b) Leap regularly communicated with public investors via established market
11 communication mechanisms, including through regular disseminations of press releases
12 on the major news wire services and through other wide-ranging public disclosures, such
13 as communications with the financial press, securities analysts and other similar
14 reporting services.

15 57. As a result of the foregoing, the market for Leap's securities promptly digested current
16 information regarding the Company from all publicly available sources and reflected such information in
17 Leap's publicly traded stock price. Under these circumstances, all purchasers of Leap securities during
18 the Class Period suffered similar injury through their purchase of Leap securities at artificially inflated
19 prices and a presumption of reliance applies.

20 IX. NO SAFE HARBOR

21 58. The statutory safe harbor provided forward-looking statements under certain
22 circumstances does not apply to any of the allegedly false statements pleaded in this Complaint. Many
23 of the specific statements pleaded herein were not identified as "forward-looking statements" when
24 made. To the extent there were any forward-looking statements, there were no meaningful cautionary
25 statements identifying important factors that could cause actual results to differ materially from those in
26

1 the purportedly forward looking statements. Alternatively, to the extent that the statutory safe harbor
 2 does apply to any forward-looking statements pleaded herein, Defendants are liable for those false
 3 forward-looking statements because at the time each of those forward-looking statements were made, the
 4 particular speaker knew that the statement was false, and/or the forward-looking statement was
 5 authorized and/or approved by an executive officer of Leap who knew that those statements were false
 6 of misleading when made.

7 COUNT I

8 **For Violation of § 10(b) of the 1934 Act and Rule 10 b-5** 9 **Against All Defendants**

10 59. Plaintiff repeats and realleges each and every allegation contained in each of the
 11 foregoing paragraphs as if fully set forth herein.

12 60. During the Class Period, Defendants disseminated or approved the false statements
 13 specified above, which they knew or recklessly disregarded were misleading in that they contained
 14 misrepresentations and failed to disclose material facts necessary in order to make the statements made,
 15 in light of the circumstances under which they were made, not misleading.

16 61. This Count is asserted against all Defendants and is based upon Section 10(b) of the 1934
 17 Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the Securities and Exchange
 18 Commission.
 19

20 62. During the Class Period, Defendants, singly and in concert, directly or indirectly, engaged
 21 in a common plan, scheme, and unlawful course of conduct pursuant to which they knowingly or
 22 recklessly engaged in acts, transactions, practices, and courses of business which operated as a fraud and
 23 deceit upon Plaintiff and the other members of the Class, and made various deceptive and untrue
 24 statements of material facts and omitted to state material facts necessary in order to make the statements
 25 made, in light of the circumstances under which they were made, not misleading to Plaintiffs and the
 26

1 other members of the Class. The purpose and effect of said scheme, plan, and unlawful course of
2 conduct was to induce Plaintiff and the other members of the Class to purchase the Company's securities
3 during the Class Period at artificially inflated prices.

4 63. During the Class Period, Defendants, pursuant to said scheme, plan, and unlawful course
5 of conduct, knowingly and recklessly issued, caused to be issued, participated in the preparation and
6 issuance of deceptive and materially false and misleading statements to the investing public which were
7 contained in or omitted from various documents and other statements, as particularized above.
8

9 64. Defendants knew and intended to deceive Plaintiff and the other members of the Class, or
10 in the alternative, acted with reckless disregard for the truth, when they failed to disclose or cause the
11 disclosure of the true facts to Plaintiff and the other members of the Class.

12 65. As a result of the dissemination of the false and misleading statements set forth above, the
13 market price of the Company's securities were artificially inflated during the Class Period. In ignorance
14 of the false and misleading nature of the representations described above and the deceptive and
15 manipulative devices and contrivances employed by Defendants, Plaintiff and the other members of the
16 Class relied to their detriment on the integrity of the market price of the stock in purchasing the
17 Company's securities. Had Plaintiff and the other members of the Class known of the materially adverse
18 information misrepresented or not disclosed by Defendants, they would not have purchased the
19 Company's securities at the artificially inflated prices that they did.
20

21 66. As a result of the inflation of the prices of Leap securities during the Class Period caused
22 by Defendants' material misrepresentations and omissions, Plaintiff and the other members of the Class
23 have suffered substantial damages.
24

25 67. By reason of the foregoing, Defendants, directly or indirectly, violated the 1934 Act and
26 Rule 10b-5 promulgated thereunder in that they:
27

1 (a) employed devices, schemes, and artifices to defraud;
 2 (b) made untrue statements of material facts or omitted to state material facts necessary
 3 in order to make the statements made, in light of the circumstances under which they were made, not
 4 misleading; and/or

5 (c) engaged in acts, practices, and a course of business which operated as a fraud and
 6 deceit and a scheme to defraud upon Plaintiff and the other members of the Class in connection with
 7 their purchases of Leap common stock during the Class Period.
 8

9 68. As a direct and proximate result of these Defendants' wrongful conduct, Plaintiff and the
 10 other members of the Class suffered damages in connection with their purchases of Leap common stock
 11 during the Class Period.

12 COUNT II

13 **For Violation of §20(a) of the 1934 Act Against the Individual Defendants**

14 69. Plaintiff repeats and realleges each and every allegation contained in each of the
 15 foregoing paragraphs as if fully set forth herein.
 16

17 70. The Individual Defendants acted as controlling persons of Leap within the meaning of
 18 §20 of the 1934 Act. By virtue of their positions and their power to control public statements about the
 19 Company, the Individual Defendants had the power and ability to control the actions of Leap and its
 20 employees. The Company controlled the Individual Defendants and its other officers and employees. By
 21 reason of such conduct, Defendants are liable pursuant to §20(a) of the 1934 Act.
 22

23 71. The Individual Defendants' positions made them privy to, and provided them with actual
 24 knowledge of, the material facts which the Company concealed from Plaintiff and the other members of
 25 the Class during the Class Period.
 26

1 72. Each of the Individual Defendants had the power and influence, and exercised same, to
2 cause the Company to engage in the unlawful conduct and practices complained of herein by causing the
3 Company to disseminate the false and misleading information referred to above.

4 73. By virtue of the foregoing, the Individual Defendants have violated Section 20(a) of the
5 Exchange Act.

6 74. By reason of the conduct alleged in Count I of the Complaint, Individual Defendants are
7 each liable for the aforesaid wrongful conduct, and are liable to Plaintiff and to the other members of the
8 Class for the substantial damages which they suffered in connection with their purchases of the
9 Company's securities during the Class Period.

10 **WHEREFORE**, Plaintiff, on behalf of himself and the members of the Class, prays for
11 judgment as follows:

12 A. Determining that this action is properly maintainable as a class action
13 pursuant to Rule 23 of the Federal Rules of Civil Procedure;

14 B. Certifying Plaintiff as the Class Representative and his counsel as Class
15 Counsel;

16 C. Declaring and determining that Defendants violated the federal securities laws
17 by reason of their conduct as alleged herein;

18 D. Awarding monetary damages against all Defendants, jointly and severally, in
19 favor of Plaintiff and the other members of the Class for all losses and damages suffered as a result
20 of the acts and transactions complained of herein, together with prejudgment interest from the date
21 of the wrongs to the date of the judgment herein;

22 E. Awarding Plaintiff the costs, expenses, and disbursements incurred in this
23 action, including reasonable attorneys' and experts' fees; and

Jan 22 2008 2:58PM

KAPLAN FOX-LA

3107850897

P. 1

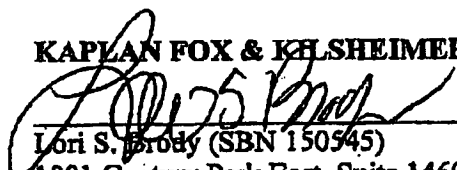
1 F. Awarding Plaintiff and the other members of the Class such other and further
2 relief as the Court may deem just and proper in light of all the circumstances of this case.

3 **JURY DEMAND**

4 Plaintiff demands a trial by jury on all issues.
5

6
7 DATED: January 22, 2008.

KAPLAN FOX & KILSHEIMER LLP

8 
Lori S. Brody (SBN 150545)
1801 Century Park East, Suite 1460
Los Angeles, CA 90067
Telephone: (310) 785-0800

KAPLAN FOX & KILSHEIMER LLP

12 Laurence D. King (SBN 206423)
350 Sansome Street, Suite 400
San Francisco, CA 94104
Telephone: (415) 772-4700

KAPLAN FOX & KILSHEIMER LLP

15 Joel B. Strauss
Jeffrey P. Campisi
850 Third Avenue
New York, NY 10022
Tel: (212) 687-1980

LOCKRIDGE GRINDAL NAUEN PLLP

19 Richard A. Lockridge
Karen H. Riebel
Nathan D. Prosser
100 Washington Avenue South
Suite 2200
Minneapolis, MN 55401
Tel: (612) 339-6900

Attorneys for Plaintiff

PLAINTIFF CERTIFICATION

1. Kent Cornicheau, hereby state:

1. I have reviewed a Complaint against Leap Wireless International, Inc., and certain of its officers and directors, and authorized the filing of the same or a similar complaint on my behalf.

2. I did not purchase any Leap Wireless International, Inc. securities at the direction of counsel or in order to participate in this private action.

3. I am willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.

4. The following includes all of my transactions in Leap Wireless International, Inc. securities during the Class Period as defined in the Complaint:

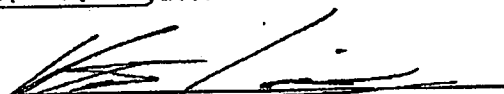
<u>TRANSACTION</u> (PURCHASE, SALE, EXCHANGE, CALL, PUT, ETC.)	<u>TRADE DATE</u>	<u>PRICE</u>	<u>QUANTITY</u>
PURCHASE	5/4/07	78.40	35

5. I have filed the following civil actions as a representative party on behalf of a class under the federal securities laws during the last three years.

6. I will not accept any payment for serving as a representative party on behalf of a class except to receive my pro rata share of any recovery, or as ordered or approved by the Court, including the award to a representative party of reasonable costs and expenses including lost wages relating to the representation of the class.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of December, 2007.


(signature)
Kent Cornicheau
(print name)
Fayette, Kentucky
(county of residence)

Jan 22 2008 2:02PM KAPLAN FOX-LA

3107850897

p.2

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

FILED

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

KENT CARMICHAEL, individually and On Behalf of All Others
Similarly Situated

(b) County of Residence of First Listed Plaintiff Fayette, Kentucky
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

KAPLAN FOX & KILSHEIMER LLP, 1801 Century Park East, Suite
1460, Los Angeles, CA 90067, Tel: (310) 785-0800

DEFENDANTS

LEAP WIRELESS INTERNATIONAL, INC. OF CALIFORNIA
[see attachment for additional defendants]

County of Residence of First Listed Defendant LA
(IN U.S. PLAINTIFF CASES ONLY) DEPUTY

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

08 CV 0128 H LSP

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

- | | | | | | |
|---|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance
<input type="checkbox"/> 120 Marine
<input type="checkbox"/> 130 Miller Act
<input type="checkbox"/> 140 Negotiable Instrument
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment
<input type="checkbox"/> 151 Medicare Act
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans's Benefits
<input type="checkbox"/> 160 Stockholders' Suits
<input type="checkbox"/> 190 Other Contract
<input type="checkbox"/> 191 Contract Product Liability
<input type="checkbox"/> 196 Franchise | PERSONAL INJURY
<input type="checkbox"/> 310 Airplane
<input type="checkbox"/> 315 Airplane Product Liability
<input type="checkbox"/> 320 Assault, Libel & Slander
<input type="checkbox"/> 330 Federal Employers' Liability
<input type="checkbox"/> 340 Marine
<input type="checkbox"/> 345 Marine Product Liability
<input type="checkbox"/> 350 Motor Vehicle
<input type="checkbox"/> 355 Motor Vehicle Product Liability
<input type="checkbox"/> 360 Other Personal Injury | PERSONAL INJURY
<input type="checkbox"/> 362 Personal Injury - Med. Malpractice
<input type="checkbox"/> 365 Personal Injury - Product Liability
<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY
<input type="checkbox"/> 370 Other Fraud
<input type="checkbox"/> 371 Truth in Lending
<input type="checkbox"/> 380 Other Personal Property Damage
<input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture
<input type="checkbox"/> 620 Other Food & Drug
<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881
<input type="checkbox"/> 630 Liquor Laws
<input type="checkbox"/> 640 R.R. & Truck
<input type="checkbox"/> 650 Airline Regs.
<input type="checkbox"/> 660 Occupational Safety/Health
<input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158
<input type="checkbox"/> 423 Withdrawal 28 USC 157
<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 950 Constitutionality of State Statutes |
|---|--|--|--|--|--|

V. ORIGIN

- (Place an "X" in One Box Only)
- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):

§ 910(b) of the Exchange Act of 1934, 15 U.S.C. §§ 78j(b) and 78i(a)
Securities Class Action

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Moskowitz

DOCKET NUMBER 07-2245, 07-2256, 07-2297

DATE

1/22/2008

SIGNATURE OF ATTORNEY OF RECORD

How J. Much

FOR OFFICE USE ONLY

RECEIPT # 146764 AMOUNT \$350

1/23/08 KLI

APPLYING IFP

JUDGE

MAG. JUDGE

ATTACHMENT TO CIVIL COVER SHEET

S. DOUGLAS HUTCHESON, MARK H. RACHESKY, AMIN I. KHALIFA, and
DEAN M. LUVISA

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

**# 146764 - BH
* * C O P Y * *
January 23, 2008
11:23:09**

Civ Fil Non-Pris

USAO #: 08CV0128 CIVIL FILING

Judge..: MARILYN L HUFF

Amount.: \$350.00 CK

Check#: BC# 6646

Total-> \$350.00

FROM: CARMICHAEL V. LEAP WIRELESS
CIVIL FILING